

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

3628
161
#21
46-05



Applicants: Robert A. Foster
Assignee: Financial Systems Technology Pty. Ltd.
Title: Data Processing System for Pricing, Costing and Billing of Financial Transactions
Serial No.: 09/183,335 Filing Date: October 30, 1998
Examiner: Fults, Richard C. Group Art Unit: 3628
Docket No.: M-7085 US

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JAN 14 2005
GROUP 3600

San Jose, California
December 29, 2004

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. § 1.181

Dear Sir:

Applicant received from the U.S. Patent and Trademark Office a Notice of Abandonment bearing a mailing date of December 20, 2004, holding that the above-referenced patent application was abandoned for failure to timely file a proper response to an Office Action mailed on October 24, 2003. Applicants respectfully submit that the holding of abandonment is erroneous. Applicants had timely and properly filed a response to the Office Action on December 10, 2003 in a submission enclosing:

1. Return Receipt Postcard;
2. Response to Office Action;
3. Transmittal Form;
4. Fee Transmittal for FY 2004;
5. Terminal Disclaimer to Obviate a Double Patenting Rejection Over A Prior Patent.

LAW OFFICES OF
MacPherson, Kwok, Chen &
Heid LLP
1762 Technology Drive, Suite 226
San Jose, CA 95110
(408)-392-9520
FAX (408)-392-9262

A copy of each item submitted in the submission of December 10, 2003 is attached herewith as Exhibit A. In fact, the return receipt postcard submitted on December 10, 2003 was returned to Applicants on December 22, 2003, bearing the stamp of the Patent and Trademark Office dated December 15, 2003. A copy of the returned receipt postcard bearing the stamp of the Patent and Trademark Office is attached herewith as Exhibit B.

A copy of the Notice of Abandonment under 37 CFR 1.53(F) or (g) is also enclosed as Exhibit C.

In view of the above, Applicants respectfully petition the Commissioner to withdraw the holding of abandonment and reinstate the above-referenced patent application. If the Examiner has any questions regarding the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicants at 408-392-9250.

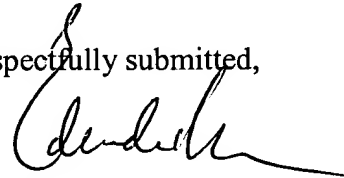
I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 29, 2004.

 12/29/2004

Attorney for Applicant(s)

Date of Signature

Respectfully submitted,



Edward C. Kwok
Attorney for Applicants
Reg. No. 33,938

Exhibit

A

COMMISSIONER FOR PATENTS

P.O. BOX 1450

ALEXANDRIA, VA 22313-1450

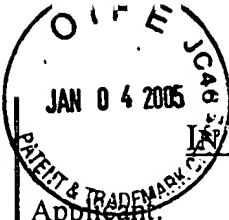
Applicants: Foster, Robert A.
Assignee: Financial Systems Technology Pty. Ltd.
Title: Data Processing System For Pricing, Costing and Billing of Financial Transactions
Serial No.: 09/183,335
Filed: October 30, 1998
Attorney Docket: M-7085 US

ENCLOSED:

1. This Return Receipt Postcard;
2. Response to Office Action (1 page in duplicate);
3. Transmittal Form (1 page);
4. Fee Transmittal for FY2004 (1 page in duplicate);
5. Terminal Disclaimer to Obviate a Double Patent Objection over a Prior Patent (1 page).

ECK/jh
December 10, 2003

FILE COPY



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Foster, Robert A.
Assignee: Financial Systems Technology Pty. Ltd.
Title: Data Processing System For Pricing, Costing And Billing Of Financial Transactions
Serial No.: 09/183,335 Filing Date: October 30, 1998
Examiner: Fults, Richard C. Group Art Unit: 2164
Docket No.: M-7085 US

San Jose, California
December 10, 2003

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Response to Office Action

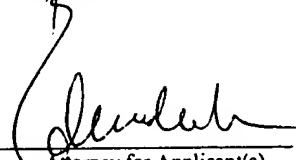
Dear Sir:

In response to the Office Action mailed by the United States Patent and Trademark Office on October 24, 2003, enclosed is a Terminal Disclaimer to Obviate A Double Patenting Rejection Over A Prior Patent to overcome the rejection based on a nonstatutory double patenting ground. Also enclosed are the following documents:

1. Transmittal Form; and
2. Fee Transmittal for FY 2004.

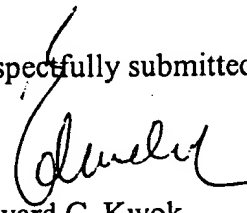
Please telephone the undersigned at (408) 392-9250, if there are any questions. This form is being submitted in duplicate.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 10, 2003.



Attorney for Applicant(s) 12/10/2003
Date of Signature

Respectfully submitted,


Edward C. Kwok
Attorney for Applicant
Reg. No. 33,938

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LAW OFFICES OF
CPHERSON KWOK CHEN &
HEID LLP
1762 Technology Drive
Suite 226
SAN JOSE, CA 95110
TEL (408) 392-9250
FAX (408) 392-9262

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

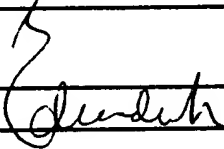
4

Application Number	09/183,335
Filing Date	October 30, 1998
First Named Inventor	Robert A. Foster
Art Unit	3628
Examiner Name	Fults, Richard C.
Attorney Docket Number	M-7085 US

ENCLOSURES (Check all that apply)

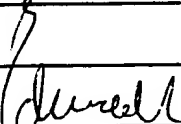
- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance communication to Technology Center (TC) |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment/Reply | <input type="checkbox"/> Petition | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input checked="" type="checkbox"/> Terminal Disclaimer | <input type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Request for Refund | |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | Remarks | |
| <input type="checkbox"/> Response to Missing Parts/ Incomplete Application | | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Edward C. Kwok, Reg. No. 33,938
Signature	
Date	December 10, 2003

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Edward C. Kwok		
Signature		Date	December 10, 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 110.00)

Complete if Known

Application Number 09/183,335
Filing Date October 30, 1998
First Named Inventor Robert A. Foster
Examiner Name Fults, Richard C.
Art Unit 3628
Attorney Docket No. M-7085 US

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number 50-2257

Deposit Account Name MacPherson Kwok Chen & ..

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$ 0.00)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims	<input type="text"/>	-20** =	<input type="text"/>	X	<input type="text"/>	= <input type="text"/>
Independent Claims	<input type="text"/>	-3** =	<input type="text"/>	X	<input type="text"/>	= <input type="text"/>
Multiple Dependent					<input type="text"/>	= <input type="text"/>

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$ 0.00)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

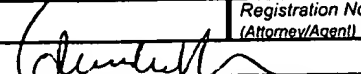
3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify) Terminal Disclaimer Fee under 37 CFR 120(d)					110.00

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 110.00)

SUBMITTED BY

Name (Print/Type) Edward C. Kwok
Registration No. (Attorney/Agent) 33,938
Telephone 408-392-9250
Signature 
Date December 10, 2003

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.
SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT

Docket Number (Optional)
M-7085 US

In re Application of:

Application No.: 09/183,335

Filed: October 30, 1998

For: Data Processing System for Pricing, Costing and Billing of Financial Transactions

The owner*, Financial Systems Technology Pty Ltd of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,052,672. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Signature

Date

Edward C. Kwok

Typed or printed name

408-392-9250

Telephone Number

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- ☒ Terminal disclaimer fee under 37 CFR 1.204 included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Exhibit

B

COMMISSIONER FOR PATENTS
P.O. BOX 1450

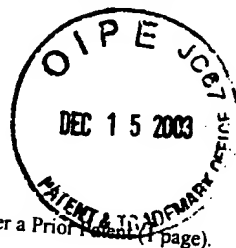
ALEXANDRIA, VA 22313-1450

Applicants: Foster, Robert A.
Assignee: Financial Systems Technology Pty. Ltd.
Title: Data Processing System For Pricing, Costing and Billing of Financial Transactions
Serial No.: 09/183,335
Filed: October 30, 1998
Attorney Docket: M-7085 US

RECEIVED
by Docket Dept.

DEC 22 2003

ENCLOSED:



1. This Return Receipt Postcard;
2. Response to Office Action (1 page in duplicate);
3. Transmittal Form (1 page);
4. Fee Transmittal for FY2004 (1 page in duplicate);
5. Terminal Disclaimer to Obviate a Double Patent Objection over a Prior Patent (1 page).

ECK/jh
December 10, 2003

ad 1/8/04

Exhibit
C



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/183,335	10/30/1998	ROBERT A. FOSTER	M-7085US	3004

32605 7590 12/20/2004

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110



EXAMINER

FULTS, RICHARD C

ART UNIT PAPER NUMBER

3628

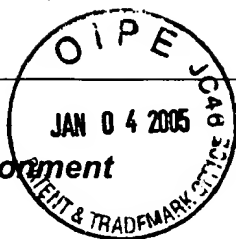
DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

ECK
Alameda *25005*
10/1 *12/3/04*
Financial System

RECEIVED
JAN 14 2005
GROUP 3600

Notice of Abandonment



Application No.

09/183,335

Examiner

Richard Fults

Applicant(s)

FOSTER, ROBERT A.

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 24 October 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

An action was mailed over one year ago with no response, and the contact attorney's telephone has been disconnected.

FTO
Au 3628

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.